Plan of Correction & Credible Allegation of Compliance

Plans of Correction (POC) and Credible Allegations of Compliance (Credible) identify how the facility plans to correct non-compliance as identified in the Statement of Deficiencies (SOD) on the CMS or State form 2567. A POC is submitted in response to *standard* level deficiencies and a Credible is submitted in response to *Condition* level deficiencies. General requirements and time lines are different for each type of response and are described below. Requirements and time lines related to specific surveys are included in the cover letters, which accompany the SOD sent to the provider.

I. Plan of Correction for Standard Level Deficiencies

What is the purpose of a Plan of Correction?

The Plan of Correction, in combination with the Statement of Deficiencies, will become the survey report disclosed to the public. The SOD identifies areas of non-compliance cited during the survey process. The POC identifies how the facility plans to correct the non-compliance.

What criteria are required for the development of a Plan of Correction?

An acceptable plan of correction must contain the following elements:

- 1. What corrective action(s) will be accomplished for those individuals found to have been affected by the deficient practice;
- 2. How you will identify other individuals having the potential to be affected by the same deficient practice and what corrective action(s) will be taken;
- 3. What measures will be put in place or what systemic change you will make to ensure that the deficient practice does not recur;
- 4. How the corrective action(s) will be monitored to ensure the deficient practice will not recur, i.e., what quality assurance program will be put into place; and,
- 5. Include dates when corrective action will be completed. 42 CFR 488.28 states ordinarily a provider is expected to take the steps needed to achieve compliance within 60 days of being notified of the deficiencies. Please keep this in mind when preparing your plan of correction. For corrective actions which require

construction, competitive bidding, or other issues beyond the control of the facility, additional time may be granted.

Is there a specific time line to submit a Plan of Correction?

Yes, approximately 24 days following a survey. When a deficiency is cited the State Agency (SA) is required to mail the provider a copy of the SOD, CMS 2567, within **10** working days after the survey.

The facility administrator is responsible to submit a plan of action to correct the deficiency(ies) and the expected date of completion is within **10 calendar days** from the date the Statement of Deficiencies is received.

Are Plans of Correction rejected?

Yes, occasionally, if the State Agency finds a POC unacceptable they will seek an acceptable one from the facility. The facility administrator must sign changes to a Plan of Correction.

When the adjustments required to the POC are minor in nature (e.g., date of completion, entity responsible for monitoring), the SA may contact the provider by telephone, make the necessary adjustments on the form, and submit the changes. The SA does not amend a POC without the facility's concurrence. In these situations, a copy of the revised POC is sent to the provider.

II. Credible Allegation of Compliance for Condition Level Deficiencies with and without Immediate Jeopardy:

What is the purpose of a Credible Allegation of Compliance?

The Credible Allegation of Compliance, in combination with the Statement of Deficiencies, will become the survey report disclosed to the public. The SOD identifies areas of non-compliance cited during the survey process. The Credible identifies how the facility has already corrected the non-compliance. In order to resolve the deficiencies, the facility must submit a letter of Credible Allegation to the Department, which contains a sufficient amount of information to indicate that a revisit to the facility will find the problem(s) corrected.

The Credible must indicate that the identified problems have been <u>corrected as of the</u> <u>date the letter is signed</u>. Hence, a POC indicating that the correction(s) will be made in the future would not be acceptable. Once the SA receives the Credible and is invited

back to the facility, an unannounced follow up survey could be made at the facility at any time.

What criteria are required for the development of a Credible Allegation of Compliance?

As stated in the CMS State Operations Manual, Section 3014, the Credible Allegation of Compliance is a statement or documentation:

- 1. Made by a provider/supplier with a history of having maintained a commitment to compliance and taking corrective actions if required.
- 2. That is realistic in terms of the possibility of the corrective actions being accomplished between the exit conference and the date of the allegation, and
- 3. That indicates resolution of the problems.

Is there a specific time line to submit a Credible Allegation of Compliance?

Yes. When a deficiency is cited, the SA is required to mail the provider a copy of the Statement of Deficiencies, CMS 2567, within **10 working days** after the survey.

The facility administrator is responsible to submit a Credible Allegation of Compliance. The time line for submission is dependent on whether or not an Immediate Jeopardy situation was identified:

- 1. When an Immediate Jeopardy situation <u>was not</u> identified, the facility has the opportunity to make corrections for those deficiencies which led to the findings of non-compliance with the Condition(s) of Participation. Such corrections must be achieved and compliance verified by the SA within 90 calendar days which is split into two 45 day time periods. The facility must make the necessary corrections and compliance must be verified by the SA within <u>45 calendar days</u> of the survey exit date. Therefore, to allow time for a follow up survey, to verify corrections prior to that date, the Credible must be received by the SA <u>approximately 8 days prior to the 45th day</u>. If the provider is unable to correct the non-compliance within the first 45 days, a second 45 day time period begins.
- 2. When an Immediate Jeopardy situation <u>was</u> identified, the provider has one opportunity to make corrections and thus avoid termination of the facility's provider agreement and approval to participate in the Medicaid Program. The facility may be given up to a maximum of 23 days to correct based on the SA's discretion. Correction of those deficiencies which led to the Immediate Jeopardy situation must be achieved and a follow-up survey must be conducted to verify compliance prior to the date determined by the SA (a maximum of 23 days). Therefore, to allow time for a follow up survey, to verify corrections prior to that

date, the Credible must be received by the SA <u>approximately 8 days prior to the</u> <u>date determined by the SA</u>.

Are Credible Allegations of Compliance rejected?

Yes, occasionally if the SA finds a Credible Allegation of Compliance unacceptable, they will seek an acceptable one from the facility. Failure to correct the deficiencies and achieve compliance will result in the SA recommending that the Medicaid Agency terminate the facility's approval to participate in the Medicaid Program. The SA will also make a recommendation to CMS that the provider agreement be terminated.